





Appendix

SECTIONS 9454, 9457, 9458, 9374, 9375, 9376, REVISED CODES OF MONTANA, 1935.

9454. Debtor required to answer concerning his property, when. When an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, issued to the sheriff of the county where he resides, or if he does not reside in this state, to the sheriff of the county where the judgment-roll is filed, is returned unsatisfied in whole or in part, the judgment creditor, at any time after such return is made, is entitled to an order from a judge of the court, requiring such judgment debtor to appear and answer concerning his property before such judge, or a referee appointed by him, at a time and place specified in the order; but no judgment debtor must be required to attend before a judge or referee out of the county in which he resides.

9457. Examination of debtors of judgment debtor, or of those having property belonging to him. After the issuing or return of an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, or upon proof by affidavit or otherwise, to the satisfaction of the judge, that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding fifty dollars, the judge may, by an order, require such person or corporation, or any officer or member thereof, to appear at a specified time and place before him, or a referee appointed by him, and answer concerning the same.

9458. *Witnesses required to testify.* Witnesses may be required to appear and testify before the judge or referee, upon any proceeding under this chapter, in the same manner as upon the trial of an issue.

9374. *Reference ordered upon agreement of parties, in what cases.* A reference may be ordered upon the agreement of the parties, filed with the clerk or entered in the minutes:

1. To try any or all of the issues in an action or proceeding, whether of fact or law and to report a finding and judgment thereon;

2. To ascertain a fact necessary to enable the court to determine an action or proceeding.

9375. *Reference ordered on motion, in what cases.* When the parties do not consent, the court may, upon the application of either, or of his own motion, direct a reference in the following cases:

1. When the trial of an issue of fact requires the examination of a long account on either side, in which the referees may be directed to hear and decide the whole issue, or report upon any specific question of fact involved therein;

2. When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect;

3. When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of the action;

4. When it is necessary for the information of the court in a special proceeding.

9376. *Number of referees, qualifications, etc.* A reference may be ordered to any person or persons, not exceeding three, agreed upon by the parties. If the parties do not agree, the court or judge must appoint one or more referees, not exceeding three, who reside in the county in which the action or proceeding is triable, and against whom there is no legal objection.

RULE 69(a), FEDERAL RULES OF CIVIL PROCEDURE.

Rule 69. *Execution.*

(a) **IN GENERAL.** Process to enforce a judgment for the payment of money shall be a writ of execution unless the court directs otherwise. The *procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the state in which the district court is held, existing at the time the remedy is sought*, except that any statute of the United States governs to the extent that it is applicable. In aid of the judgment or execution the judgment creditor or his successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions or in the manner provided by the practice of the state in which the district court is held. (Italics supplied.)